



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/004,115  
Applicant : ASAKO et al.  
Filed: : December 6, 2001  
TC/A.U. : 1652  
Examiner : Elizabeth Slobodyansky

Confirmation No.: 3895

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AUG 19 2003

TECH CENTER 1600/2900

Docket No. : 7372/72249  
Customer No. : 22242

August 15, 2003

**RESPONSE TO  
REQUIREMENT FOR RESTRICTION**

U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop **RR**  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

Dear Sir:

Please enter this response to the July 25, 2003 Requirement for Restriction.

- (1) Remarks begin on page 2.

# REMARKS

Applicants respectfully respond to the July 25, 2003 Requirement for Restriction. The Requirement split this application into Group I (claims 1-14); Group II (claim 5); Group III (claims 16-20); Group IV (claims 21-23); Group V (claim 24); Group VI (claims 25-30); and Group VII (claims 31-38).

Applicants traverse. The statute requires independent and distinct, and the Requirement merely refers to "distinct," wherefore the Restriction should be reconsidered.

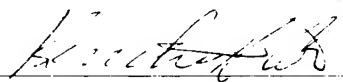
Applicants also submit that the underlying assumption to the Restriction should also be reconsidered. Here, Applicants have filed an IDS on April 8, 2003, and an IDS on January 22, 2003. The present Examiner has the EPO search report (see January 22, 2003 IDS) from which it is clear another examining authority has been able to review prior art as to all claims. Therefore, since the search has been done by another examining authority, Applicants request reconsideration and withdrawal of the Restriction consistent with the MPEP Section 803 ("if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits ...")

Applicants elect, subject to the present traverse, claims 1-14.

Applicants respectfully solicit an early favorable action on the merits.

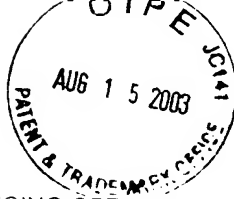
Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By: 

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Registration No. 30,368

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In re Application of ASAKO et al.  
Application No. 10/004,115  
Filed: December 6, 2001  
For: PROCESS FOR PRODUCING OPTICALLY ACTIVE 4-HALO-3-HYDROXYBUTANOATE

U.S. Patent and Trademark Office  
2011 South Clark Place  
Customer Window, Mail Stop RR  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

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Sir:

Transmitted herewith is a response to a 30-day Office Action in the subject application.

☐ small entity status of this application under 37 CFR 1.27.

DUE DATE: August 25, 2003

☒ Petition For Extension Of Time

☐ for a -month extension of time under 37 CFR 1.136, the fee of \$0.00 is enclosed.

☒ petition for an extension of time is **NOT** necessary. However, to the extent that such petition is deemed necessary, for a sufficient extension of time to render the present submission timely. Please charge Deposit Account No. 06-1135 for the appropriate petition fee.

☒ No additional claim fee is required.

☐ Other:

The claim fee has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	EXTRA CLAIMS PRESENT	SMALL ENTITY		OTHER THAN A SMALL ENTITY	
					RATE	ADDIT. CLAIM FEE	RATE	ADDIT. CLAIM FEE
TOTAL	49	MINUS	49	0	x 9=	\$	x 18=	\$0.00
INDEPENDENT	6	MINUS	6	0	x 40=	\$	x 84=	\$0.00
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE CLAIM					+ 135=	\$	+ 280=	\$
					TOTAL	\$	TOTAL	\$0.00

☐ Please charge my Deposit Account No. 06-1135 in the amount of \$0.00, under Order No. A duplicate copy of this sheet is attached.

☐ A check in the amount of \$0.00 is attached.

☒ The Commissioner is hereby authorized to charge any deficiencies in the following fees associated with this communication or credit any overpayment to Deposit Account No. 06-1135. A duplicate copy of this sheet is attached.

☒ Any filing fees under 37 CFR 1.16 for the presentation of extra claims.

☒ Any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

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